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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,785	04/01/2004	Bia Mac	5351	4948

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SILVER SPRING, MD 20910

EXAMINER
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FARAH, AHMED M

ART UNIT	PAPER NUMBER
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3735

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/814,785

Applicant(s)

MAC ET AL.

Examiner

Ahmed M. Farah

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/23/05; 11/09/05</u> .                                      | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of invention IV, claims 8-20, in the reply filed on October 16, 2006, is acknowledged.

Claims 1-7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 16, 2006.

### ***Claim Objections***

Claims 8-20 are objected to because of the following informalities: claims 1, 11, and 14 recite, "light sources which generate bio-energy light beams," respectively. The context/scope of the term 'bio-energy light' in the claims is not clear to the examiner. Moreover, although term 'bio-energy' has a well-defined meaning, it is not described in the applicant's written description. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites the limitation "wherein the treatment accessories" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "wherein each accessory" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 19 recites the limitation "wherein the accessories" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Diamantopoulos et al. US Patent No. 4,930,504.

Diamantopoulos et al. disclose a treatment apparatus comprising:

a plurality of light sources including multiple arrays of both visible and invisible light emitting devices;

at least one power source for providing power to said light devices to generate bio-stimulation light beams;

a control means for controlling the parameters of the bio-stimulating energy, such as the beam power, pulse frequency, and duration; and

a plurality of probes for delivering the bio-stimulating light beams to a treatment site (see Figure 4).

Claims 8 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lai et al. US Patent No. 6,074,411.

Lai et al. disclose a laser treatment apparatus and methods of use, the apparatus comprising: a laser light source; a power source for providing power to the light source; a timer controlled switch; and a plurality of light probes configured to be attached onto a patient's body to deliver treatment energy to a tissue site, wherein a self adhesive is used to attach the probes to the tissue site as presently claimed (note, in this Office Action, the self adhesive of Lai et al. is treated as being analogous to the double sided tape recited in the claims).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Diamantopoulos et al. in view of Welton, US patent no. 4,835,749.

Although Diamantopoulos et al., described above, teach the use of countdown program timer (see Figure 4), their time is not configured to shut off the treatment

apparatus as presently claimed. However, the use of countdown timer to shut off a treatment apparatus is well known in the medical art. Welton discloses an alternative treatment device comprising a countdown clock configured to shut off the treatment device at a preset time. Hence, at the time of the applicant's invention, it would have been obvious to one skilled in the art to modify the timer of Diamantopoulos et al. and use it to shut off the treatment apparatus or any of the light delivery probes for a predetermined time/period.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon, Tue, Thur and Fri between 9:30 AM 7:30 PM.

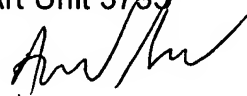
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marmor II Charles can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 3735

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ahmed M Farah  
Primary Examiner  
Art Unit 3735

A handwritten signature in black ink, appearing to read 'Ahmed M Farah', written over the printed name and title.

November 12, 2006.